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Before the
Federal Communications Commission
Washington, D.C. 20554

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MAY 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Program to Monitor Impacts of Universal)	CCB-IAD File No. 98-101
Service Support Mechanisms)	DA 98-580

COMMENTS OF BELL ATLANTIC¹

The Commission's plan to gather vast amounts of information to "monitor" federal and state universal service programs should be scaled back, for two reasons.

First, some of the requested information appears in reports that the Commission should eliminate, either in its current ARMIS proceeding or in its biennial review of all of its regulations. The Commission is required by statute to reduce the regulatory burdens on carriers, and it should not expand the reach of existing requirements while it contemplates their survival, as proposed here. And any specific universal service reporting requirements that are ultimately adopted should be limited in the manner outlined below to avoid imposing unnecessary burdens on carriers, as required by the 1996 Act.

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company; and New England Telephone and Telegraph Company.

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Second, the Commission should not impinge on state authority by requiring carriers to report on intrastate rates and universal service contributions. Universal service is a federal-state partnership, and the Commission should confine its information-gathering to its side of the equation. States are certainly free to tell the Commission what programs they have in place if they wish, but carriers should not be required to provide data about state matters.

ARGUMENT

Section 11(a) of the Act requires the Commission to review all its rules this year, and biennially thereafter, and eliminate any that are no longer required. 47 U.S.C. § 161(a).² Even now, the Commission is examining some of the ARMIS reports, including two that are referenced in the Notice here,³ and has received comments on whether to reduce, expand, or otherwise modify those reports. *Proposed Modifications to ARMIS Service Quality Reporting Requirements, Proposed Modifications to ARMIS 43-07 Infrastructure Report*, 13 FCC Rcd 5083 (1998).

In that proceeding, Bell Atlantic has shown that these ARMIS reports are relics of price cap regulation and should be eliminated. As pointed out there,

[t]he Commission recently observed that there is no evidence of a decline in network investment or service quality under price caps.... Price Cap Performance Review, 10 FCC Rcd 8961 (1995), ¶¶ 62, 365. Given this there simply is no reason that justifies continuing the ARMIS reports at all under Section 11, which states that the Commission “shall” repeal any regulatory requirement that is no longer “necessary.” In addition, continuing the reports after their purpose has already been served would be contrary to Section 10 of the Act, which states that

² The Commission has announced that it plans to undertake this review. Report No. GN 98-1 (rel. Feb. 5, 1998).

³ Public Notice, DA 98-580 (rel. Apr. 24, 1998) (“Notice”).

the Commission “shall” forebear from applying any regulation that is no longer “necessary” to ensure that rates are just and reasonable and to protect consumers.

Reply Comments of Bell Atlantic at 2, AAD 98-22 and 98-23 (filed May 15, 1998). Until the Commission completes its review of the need to retain these reports, it should not expand their scope or use, as proposed here. If, however, it decides to require certain incumbent local exchange carriers (those subject to ARMIS) to file detailed reports, it needs to require other local exchange carriers, both smaller incumbents and new competitors, to file similar information, in order to obtain a complete picture of the competitive marketplace.

Turning to the eleven specific reports that the Commission is proposing:

1. Contributions and Industry Revenues: This report, based on information submitted by the Administrator, should be limited to the aggregate retail revenues upon which each segment of the universal service contributions – high-cost, schools and libraries, low-income, and rural health care – are based. If desired, the figures could be broken down by industry segment (e.g., interexchange carriers, local exchange carriers, CMRS providers, etc.). It should not include the revenue base for the state universal service programs, because those programs are entirely under the states’ purview.
2. Low-Income Support: This report should be limited to a listing of the amount of per-line federal support, and the aggregate amount of such support, that each state receives. That report could also specify the number of Lifeline and Linkup customers receiving support in each state. So long as the state continues to certify that its criteria are income-based, there is no reason why the Commission should require the details of state programs or the specific eligibility criteria each state has chosen to use. The specific criteria that are used are within the prerogative of the state, and requiring carriers (or anyone else) to report what criteria are established by each state would impose an unnecessary burden.
3. High-Cost Support: This report should be limited to the amount of federal high-cost support and Long Term Support (“LTS”) payments given to each state and the amount of implicit support each state receives through Dial Equipment Minutes (“DEM”) Weighting. Once LTS and DEM weighting are eliminated and incorporated into the high-cost mechanism, the report should be limited to the amount of high-cost support. There is no reason to require any smaller geographical breakdown of support payments, because distribution of high-cost support within a state is a matter of state responsibility. Likewise, there is no reason that a universal service monitoring report should include such information

as the number of carriers serving a support area or the market shares of such carriers, as the Commission suggests. Notice at ¶ 27. This information is unrelated to whether local rates are affordable or the amount of federal high-cost support required by each state. It is also likely to involve disclosure of competitively-sensitive data. If the Commission requires such reports, however, they should be required from all local exchange carriers, not just incumbents, in order to provide a complete picture of the local market.

4. Schools and Libraries Support: This report should consist of the total support given to schools and libraries and the state-by-state breakdown. If desired, it could include a breakdown by percent discount level, so that the Commission can determine how much funding is going to schools and libraries with the most low-income students and those in rural areas.

5. Rural Health Care Support: This report should also consist of aggregated support data. There is no reason to obtain detailed, intrusive information about each participating rural health care provider, as proposed. Notice at ¶ 34.

6. Rates: There is no reason to require reports of local rates. The federal high-cost support program should provide payments to states that experience average per-line costs that exceed the national average. See Comments of Bell Atlantic at 11-12 and Exh. 1 (filed May 15, 1998). States are responsible for distributing the federal funds, and for creating and administering any needed state programs, to ensure that local rates remain affordable. Given this division of authority – a division required by Section 2(b) of the Act – there is no federal reason to require reporting of local and other intrastate rates. Federal rate reporting should, therefore, be limited to interstate rates that are within its jurisdiction, and the local rate survey forms that appear in the Appendices to the Notice should not be used. Moreover, requiring reports on local rates would be particularly unwarranted in the case of business rates. Many states have deregulated some business services or permit contract pricing or other streamlined mechanisms, and no federal purpose would be served by requiring carriers to report the prices charged for those services in a competitive environment. On the contrary, as the Supreme Court has pointed out in the tariffing context, regulatorily mandated disclosure of carriers' price levels is likely to be counter-productive, since it may deter vigorous price competition. *MCI Tel. Corp. v. Am. Tel. and Tel. Co.*, 512 U.S. 218, 234 (1994).

7. Subscribership Penetration: The Commission should continue to format and report the subscribership data it obtains from the Census Bureau, as it proposes. Notice at ¶ 42.

8. Usage: The Commission should continue to collect and report information from NECA (or the appropriate Administrator) on interstate access minutes and DEM weighting support. In order to provide a complete picture, however, the

Commission must obtain such data from all carriers, not just incumbent local exchange carriers.

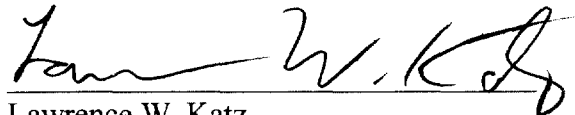
9. Quality of Service: As discussed above, Bell Atlantic has urged the Commission to eliminate this report as a relic of price caps. The Commission has found that service quality has not declined, and competitive forces should ensure that service quality remains high. Therefore, the ARMIS service quality filing should be terminated and not incorporated into the universal service monitoring report. At a minimum, however, in order to get a complete picture of service quality, the Commission should require that any service quality reports it retains are filed by all carriers, not just those that must file ARMIS reports.

10. Infrastructure: Likewise, the ARMIS infrastructure report should be eliminated, not incorporated into the universal service monitoring reports. At a minimum, any infrastructure reports should be required of all carriers.

11. Revenues, Expenses, and Investment: In its upcoming biennial review, the Commission should consider eliminating the ARMIS 43-01 report, upon which this report is based. The Commission admits that the 43-01 was "primarily utilized in connection with the activities of the Separations Joint Board." Notice at ¶ 49. Pending that review, the use of the 43-01 report should not be expanded by incorporating it into the universal service monitoring reports. If it is retained, however, and used for universal service, all carriers should be required to report similar information, in order to give the Commission a complete picture.

Accordingly, the Commission should substantially reduce the data required in the monitoring reports, as discussed above, and should not require the reporting of state information.

Respectfully Submitted,



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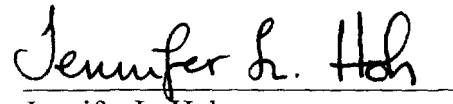
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May 26, 1998

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of May, 1998 a copy of the foregoing "Comments of Bell Atlantic" was served on the parties on the attached list.


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